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U.S. House of Representatives
Committee on Financial Services
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April 29, 2004

ROBERT U. FOSTER III
STAFF DIRECTOR

The Honorable Timothy J. Muris
Chairman
Federal Trade Commission
Office of the Secretary
Room 159-H (Annex C)
600 Pennsylvania Avenue, NW
Washington, D.C. 20580

Dear Chairman Muris:

We were pleased to see the Federal Trade Commission's March 19, 2004 publication of a proposed rule implementing the Fair and Accurate Credit Transaction Act's (FACT Act's) requirements for a centralized source through which consumers may request a free annual file disclosure from each nationwide consumer reporting agency (CRA). You and your staff are to be commended for meeting the tight rulemaking deadline imposed by the statute.

The free annual credit reports mandated by the FACT Act will give American consumers an important new tool for managing their credit and making informed judgments about their personal finances. Although it is difficult to predict how many consumers will exercise their right to a free credit report, we believe (and hope) that the numbers will be sizable. Therefore, it is critical that the centralized source through which consumers seeking free reports will be required to make their requests be dependable, and that its operational integrity be maintained at all times. A system that fails to afford consumers reliable and convenient access to their reports will quickly lose consumers' confidence, undermining the very benefits that Congress sought to achieve in establishing the free credit report requirement in the first place.

The FTC's proposed rule requires nationwide CRAs to employ reasonable procedures to build and maintain a centralized source that will have "adequate capacity" to meet consumer demand for free file disclosures. Congress provided a transitional period to allow for the establishment of an appropriate capacity standard. It is imperative that *definitive* guidance be provided to the nationwide CRAs on this issue. As you noted in the overview of the proposed rule, it is impossible to predict demand volume with precision, especially in the first few months. However, there is data available which provides a helpful starting point. Specifically, as you recognized in your overview, the experience in the seven states which have a free report requirement shows that demand

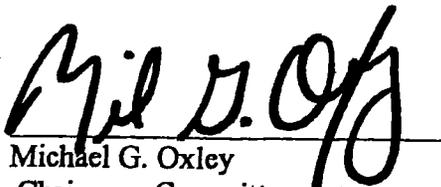
for all types of file disclosures increased roughly 2 1/2 times that of the average for the rest of the nation. We encourage you to use this and any other available predictive data to establish a bright-line capacity rule that can be relied upon at least through the transition period. Additional flexibility may be appropriate after the transition period when more meaningful data will be available.

During the initial transition to a centralized source, it is also important for the proposed rule to make adequate allowance for situations in which the centralized source experiences a heavy volume of requests. The proposed rule provides relief for CRAs when request volume reaches twice the rolling daily average of requests in the immediately preceding 90-day period. Once demand reaches 200% of normal levels, it may be too late to provide any meaningful protection. Accordingly, the Commission may want to consider a more modest trigger that reflects this context, and ensures that the centralized source does not suffer disruptions or systems failures created by unusual surges in demand.

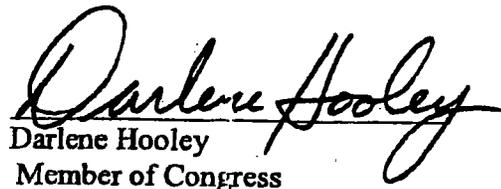
Finally, we note that the proposed rule requires that CRAs establish "contingency plans" to address circumstances that may materially and adversely affect the operation of the nationwide consumer reporting agency, a centralized source request method, or the centralized source. In enacting the centralized source provisions of the FACT Act, it was not Congress' intent for nationwide CRAs to be subject to liability for acts of God or other events beyond their control, such as terrorist acts. Rather, it may be a more constructive approach to establish a separate safe harbor for such uncontrollable or unpredictable events.

Thank you for your consideration of our views in this matter. We look forward to working with you to assure that final regulations reflect congressional intent on this important provision, so that consumers have access to a reliable source for the free credit reports guaranteed them by the FACT Act.

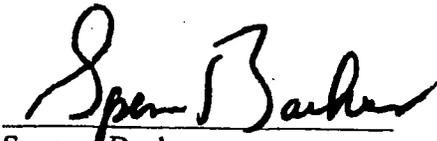
Yours truly,



Michael G. Oxley
Chairman, Committee on
Financial Services



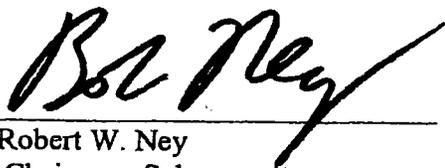
Darlene Hooley
Member of Congress



Spencer Bachus
Chairman, Subcommittee on
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Consumer Credit



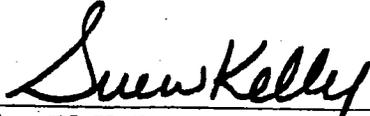
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Member of Congress



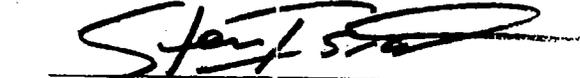
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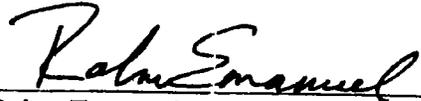
Sue W. Kelly
Chair, Subcommittee on
Oversight and Investigations



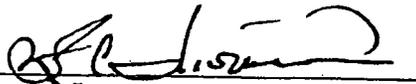
Steve Israel
Member of Congress



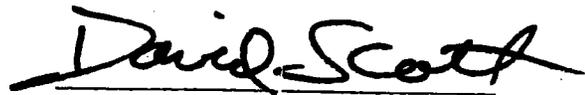
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Member of Congress



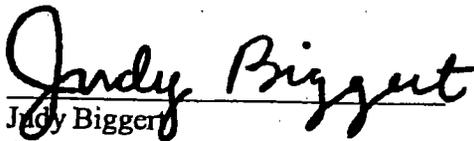
Rahm Emanuel
Member of Congress



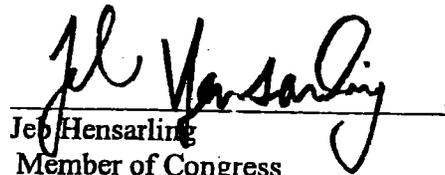
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